

§ 604.27

49 CFR Ch. VI (10–1–12 Edition)

the evidence of one or more of the following:

- (1) Bad faith;
- (2) Fraud;
- (3) Lapse of insurance;
- (4) Lapse of other documentation; or
- (5) The filing of more than one complaint, which on its face, does not state a claim that warrants an investigation or further action by FTA.

(e) FTA's determination whether or not to remove a registered charter provider or qualified human service organization from the registration list shall be sent to the parties within 30 days of the date of the response required in paragraph (b) of this section and shall state:

(1) Reasons for allowing the continued listing or removal of the registered charter provider or qualified human service organization from the registration list;

(2) If removal is ordered, the length of time (not to exceed three years) the private charter operator or qualified human service organization shall be barred from the registration list; and

(3) The date by which the private charter operator or qualified human service organization may re-apply for registration on the FTA charter registration Web site.

§ 604.27 Complaints, answers, replies, and other documents.

(a) A registered charter provider, or its duly authorized representative ("complainant"), affected by an alleged noncompliance of this part may file a complaint with the Office of the Chief Counsel.

(b) Complaints filed under this subpart shall:

(1) Be titled "Notice of Charter Service Complaint";

(2) State the name and address of each recipient that is the subject of the complaint and, with respect to each recipient, the specific provisions of this part that the complainant believes were violated;

(2) Be served in accordance with § 604.31, along with all documents then available in the exercise of reasonable diligence, offered in support of the complaint, upon all recipients named in the complaint as being responsible

for the alleged action(s) or omission(s) upon which the complaint is based;

(3) Provide a concise but complete statement of the facts relied upon to substantiate each allegation (complainant must show by a preponderance of the evidence that the recipient provided charter service and that such service did not fall within one of the exemptions or exceptions set out in this part);

(4) Describe how the complainant was directly and substantially affected by the things done or omitted by the recipients;

(5) Identify each registered charter provider associated with the complaint; and

(6) Be filed within 90 days after the alleged event giving rise to the complaint occurred.

(c) Unless the complaint is dismissed pursuant to § 604.28 or § 604.29, FTA shall notify the complainant, respondent, and state recipient, if applicable, within 30 days after the date FTA receives the complaint that the complaint has been docketed. Respondent shall have 30 days from the date of service of the FTA notification to file an answer.

(d) The complainant may file a reply within 20 days of the date of service of the respondent's answer.

(e) The respondent may file a rebuttal within 10 days of the date of service of the reply.

(f) The answer, reply, and rebuttal shall, like the complaint, be accompanied by the supporting documentation upon which the submitter relies.

(g) The answer shall deny or admit the allegations made in the complaint or state that the entity filing the document is without sufficient knowledge or information to admit or deny an allegation, and shall assert any affirmative defense.

(h) The answer, reply, and rebuttal shall each contain a concise but complete statement of the facts relied upon to substantiate the answers, admissions, denials, or averments made.

(i) The respondent's answer may include a motion to dismiss the complaint, or any portion thereof, with a supporting memorandum of points and authorities.

(j) The complainant may withdraw a complaint at any time after filing by serving a “Notification of Withdrawal” on the Chief Counsel and the respondent.

§ 604.28 Dismissals.

(a) Within 20 days after the receipt of a complaint described in § 604.27, the Office of the Chief Counsel shall provide reasons for dismissing a complaint, or any claim in the complaint, with prejudice, under this section if:

(1) It appears on its face to be outside the jurisdiction of FTA under the Federal Transit Laws;

(2) On its face it does not state a claim that warrants an investigation or further action by FTA; or

(3) The complainant lacks standing to file a complaint under subparts B, C, or D of this part.

(b) [Reserved]

§ 604.29 Incomplete complaints.

If a complaint is not dismissed under § 604.28, but is deficient as to one or more of the requirements set forth in § 604.27, the Office of the Chief Counsel may dismiss the complaint within 20 days after receiving it. Dismissal shall be without prejudice and the complainant may re-file after amendment to correct the deficiency. The Chief Counsel’s dismissal shall include the reasons for the dismissal without prejudice.

§ 604.30 Filing complaints.

(a) *Filing address.* Unless provided otherwise, the complainant shall file the complaint with the Office of the Chief Counsel, 1200 New Jersey Ave., SE., Room E55-302, Washington, DC 20590 and file it electronically in the Charter Service Complaint docket number FTA-2007-0025 at <http://www.regulations.gov> or mail it to the docket by sending the complaint to 1200 New Jersey Ave., SE., West Building Ground Floor, Room W12-140, Washington, DC 20590.

(b) *Date and method of filing.* Filing of any document shall be by personal delivery, U.S. mail, or overnight delivery with receipt confirmation. Unless the date is shown to be inaccurate, documents to be filed with FTA shall be deemed filed, on the earliest of:

(1) The date of personal delivery;

(2) The mailing date shown on the certificate of service;

(3) The date shown on the postmark if there is no certificate of service; or

(4) The mailing date shown by other evidence if there is no certificate of service and no postmark.

(c) *E-mail or fax.* A document sent by facsimile or e-mail shall not constitute service as described in § 604.31.

(d) *Number of copies.* Unless otherwise specified, an executed original shall be filed with FTA.

(e) *Form.* Documents filed with FTA shall be typewritten or legibly printed. In the case of docketed proceedings, the document shall include a title and the docket number, as established by the Chief Counsel or Presiding Official, of the proceeding on the front page.

(f) *Signing of documents and other papers.* The original of every document filed shall be signed by the person filing it or the person’s duly authorized representative. Subject to the enforcement provisions contained in this subpart, the signature shall serve as a certification that the signer has read the document and, based on reasonable inquiry, to the best of the signer’s knowledge, information, and belief, the document is:

(1) Consistent with this part;

(2) Warranted by existing law or that a good faith argument exists for extension, modification, or reversal of existing law; and

(3) Not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of the administrative process.

§ 604.31 Service.

(a) *Designation of person to receive service.* The initial document filed by the complainant shall state on the first page of the document for all parties to be served:

(1) The title of the document;

(2) The name, post office address, telephone number; and

(3) The facsimile number, if any, and e-mail address(es), if any.

If any of the above items change during the proceeding, the person shall promptly file notice of the change with